

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

HEATHER STUDER,)	
)	
Plaintiff,)	
)	
vs.)	No.
)	
KATHERINE SHAW BETHEA)	District Judge:
HOSPITAL,)	
)	Magistrate Judge:
Defendant.)	

NOTICE OF REMOVAL

KATHERINE SHAW BETHEA HOSPITAL (KSB), by Ward, Murray, Pace & Johnson, P.C., its attorneys, pursuant to 28 U.S.C. Sections 1331, 1441, and 1446, files this Notice of Removal to transfer this cause from the Circuit Court of the Fifteenth Judicial Circuit, Lee County, Illinois, in which it is now pending as Case No. 2015 SC 497, to the United States District Court for the Northern District of Illinois, Western Division. In support of its Notice of Removal, KSB states:

1. This civil action was filed on or about August 21, 2015 in the Circuit Court of the Fifteenth Judicial Circuit, Lee County, Illinois, case No. 2015 SC 497. KSB was served with the complaint and summons on September 4, 2015. Pursuant to 28 U.S.C. Section 1446(a), a copy of all pleadings served upon KSB is attached as Exhibit A. Pursuant to 28 U.S.C. Section 1446(b), this Notice of Removal is timely, as it is filed within 30 days after receipt by KSB of the complaint and summons.

2. Plaintiff's complaint alleges she was employed by KSB and that, following her resignation from employment, was entitled to certain fringe benefits called "PDL", or Paid Days Leave. Plaintiff seeks monetary compensation for PDL, together with other relief.

3. KSB's PDL program is part of a "welfare benefit plan" as defined by the Employee Retirement Income Security Act of 1974, 29 U.S.C. Section 1001 *et seq.* ("ERISA").

4. A copy of the Basic Plan Document for KSB's employee welfare benefit plan (the Plan) is attached hereto as Exhibit B, and hereby incorporated herein.

5. KSB's Adoption Agreement of the Basic Plan Document is attached hereto as Exhibit C and hereby incorporated herein. Pursuant to paragraphs 4.1 and 6.1 of the Adoption Agreement, PDL is subject to the provisions of the Plan.

6. A copy of the Summary Plan Description is attached hereto as Exhibit D and hereby incorporated herein. Pursuant to paragraphs 2.3 and 2.4 of the Summary Plan Description, Plaintiff was a participant in the Plan with respect to PDL benefits.

7. Because Plaintiff's complaint seeks to recover benefits allegedly due under the terms of the Plan, the complaint falls within the scope of ERISA's civil enforcement remedy, and is within this Court's original jurisdiction under 28 U.S.C. Section 1331 and 29 U.S.C. Section 1132(e). KSB may therefore remove the action under 28 U.S.C. Section 1441(a).

8. Although Plaintiff has attempted to cast her claim as a state law claim for payment of wages under the Illinois Wage Payment & Collection Act, 820 ILCS 115/1 *et seq.*, ERISA converts the claim into one arising under federal law pursuant to the doctrine of complete preemption. *Jass v. Prudential Health Care Plan, Inc.*, 88 F.3d 1482, 1486-90 (7th Cir. 1996); *Aetna Health, Inc. v. Davila*, 542 U.S. 200, 207-10 (2004). Plaintiff's complaint is subject to complete preemption because her entitlement to benefits, if any, depends on the interpretation of the Plan's coverage provisions and adherence to the procedural requirements of the Plan.

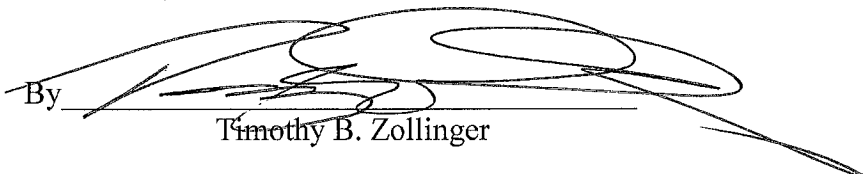
9. KSB may remove this action to federal court by filing its Notice of Removal in accordance with 28 U.S.C. Section 1446.

10. Concurrent with the filing of this Notice of Removal, KSB is filing a Notice of

Filing of Notice of Removal with the Circuit Court of the Fifteenth Judicial Circuit, Lee County, Illinois.

KATHERINE SHAW BETHEA HOSPITAL, Defendant

By WARD, MURRAY, PACE & JOHNSON, P.C.,
Its Attorneys

By 
Timothy B. Zollinger

WARD, MURRAY, PACE & JOHNSON, P.C.
Attorneys for Plaintiff
202 East Fifth Street, P.O. Box 400
Sterling, IL 61081-0400
Telephone: (815) 625-8200

CERTIFICATE OF SERVICE

I hereby certify that a copy of "Notice of Removal" was filed electronically on October 2, 2015. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

William H.T. Lee

whitlee@lincolnwaylaw.com

A handwritten signature in black ink, appearing to read "Timothy B. Zollinger", written over a horizontal line.

Timothy B. Zollinger